

Senate File 509 - Enrolled

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SENATE FILE 509

AN ACT

RELATING TO A REVISED UNIFORM ANATOMICAL GIFT ACT, AND
PROVIDING PENALTIES.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

DIVISION I

REVISED UNIFORM ANATOMICAL GIFT ACT

Section 1. Section 142C.1, Code 2007, is amended by
striking the section and inserting in lieu thereof the
following:

142C.1 SHORT TITLE.

This chapter shall be known and may be cited as the
"Revised Uniform Anatomical Gift Act".

Sec. 2. Section 142C.2, Code 2007, is amended by striking
the section and inserting in lieu thereof the following:

142C.2 DEFINITIONS.

As used in this chapter, unless the context otherwise
requires:

1. "Adult" means an individual who is eighteen years of
age or older.

2. "Agent" means an individual who meets any of the
following conditions:

a. Is authorized to make health care decisions on the
principal's behalf by a durable power of attorney for health
care pursuant to chapter 144B.

b. Is expressly authorized to make an anatomical gift on
the principal's behalf by any other record signed by the
principal.

3. "Anatomical gift" or "gift" means a donation of all or
part of the human body effective after the donor's death, for
the purposes of transplantation, therapy, research, or
education.

4. "Decedent" means a deceased individual whose body or
part is or may be the source of an anatomical gift and
includes a stillborn infant.

5. "Disinterested witness" means a witness other than the
spouse, child, parent, sibling, grandchild, grandparent, or
guardian of the individual who makes, amends, revokes, or
refuses to make an anatomical gift, or any other adult who
exhibited special care and concern for the individual.
"Disinterested witness" does not include a person who may
receive an anatomical gift pursuant to section 142C.5.

6. "Document of gift" means a donor card or other record
used to make an anatomical gift, including a statement or
symbol on a driver's license or identification card, or an
entry in a donor registry.

7. "Donor" means an individual whose body or part is the
subject of an anatomical gift.

8. "Donor registry" means a database that contains records
of anatomical gifts and amendments of anatomical gifts.

9. "Driver's license" means a license or permit issued by
the state department of transportation to operate a vehicle,
whether or not conditions are attached to the license or
permit.

10. "Eye bank" means a person that is licensed,
accredited, or regulated under federal or state law to engage
in the recovery, screening, testing, processing, storage, or
distribution of human eyes or portions of human eyes.

11. "Forensic pathologist" means a pathologist who is
further certified in the subspecialty of forensic pathology by
the American board of pathology.

12. "Guardian" means a person appointed by a court to make
decisions regarding the support, care, education, health, or
welfare of an individual, but does not include a guardian ad
litem.

13. "Hospital" means a hospital licensed under chapter
135B, or a hospital licensed, accredited, or approved under
federal law or the laws of any other state, and includes a
hospital operated by the federal government, a state, or a
political subdivision of a state, although not required to be

3 4 licensed under state laws.

3 5 14. "Identification card" means a nonoperator's
3 6 identification card issued by the state department of
3 7 transportation pursuant to section 321.190.

3 8 15. "Iowa donor network" means the nonprofit organization
3 9 certified by the centers for Medicare and Medicaid services of
3 10 the United States department of health and human services as
3 11 the single organ procurement agency serving the state and
3 12 which also serves as the tissue recovery agency for the state.

3 13 16. "Iowa donor registry" means the Iowa donor registry
3 14 administered by the Iowa donor network.

3 15 17. "Know" means to have actual knowledge.

3 16 18. "Medical examiner" means an individual who is
3 17 appointed as a medical examiner pursuant to section 331.801 or
3 18 691.5.

3 19 19. "Minor" means an individual who is less than eighteen
3 20 years of age.

3 21 20. "Organ procurement organization" means a person
3 22 designated by the United States secretary of health and human
3 23 services as an organ procurement organization.

3 24 21. "Parent" means a parent whose parental rights have not
3 25 been terminated.

3 26 22. "Part" means an organ, an eye, or tissue of a human
3 27 being, but does not include the whole body of a human being.

3 28 23. "Pathologist" means a licensed physician who is
3 29 certified in anatomic or clinical pathology by the American
3 30 board of pathology.

3 31 24. "Person" means person as defined in section 4.1.

3 32 25. "Physician" means an individual authorized to practice
3 33 medicine and surgery or osteopathy and surgery under the laws
3 34 of any state.

3 35 26. "Procurement organization" means an eye bank, organ
4 1 procurement organization, or tissue bank.

4 2 27. "Prospective donor" means an individual who is dead or
4 3 near death and has been determined by a procurement
4 4 organization to have a part that could be medically suitable
4 5 for transplantation, therapy, research, or education, but does
4 6 not include an individual who has made a refusal.

4 7 28. "Reasonably available" means able to be contacted by a
4 8 procurement organization without undue effort and willing and
4 9 able to act in a timely manner consistent with existing
4 10 medical criteria necessary for the making of an anatomical
4 11 gift.

4 12 29. "Recipient" means an individual into whose body a
4 13 decedent's part has been transplanted or is intended for
4 14 transplant.

4 15 30. "Record" means information that is inscribed on a
4 16 tangible medium or that is stored in an electronic or other
4 17 medium and is retrievable in perceivable form.

4 18 31. "Refusal" means a record created pursuant to section
4 19 142C.3 that expressly states an individual's intent to
4 20 prohibit other persons from making an anatomical gift of the
4 21 individual's body or part.

4 22 32. "Sign" means to do any of the following with the
4 23 present intent to authenticate or adopt a record:
4 24 a. Execute or adopt a tangible symbol.
4 25 b. Attach to or logically associate with the record an
4 26 electronic symbol, sound, or process.

4 27 33. "State" means any state of the United States, the
4 28 District of Columbia, Puerto Rico, the United States Virgin
4 29 Islands, or any territory or insular possession subject to the
4 30 jurisdiction of the United States.

4 31 34. "Technician" means an individual determined to be
4 32 qualified to remove or process parts by an appropriate
4 33 organization that is licensed, accredited, or regulated under
4 34 federal or state law and includes an enucleator.

4 35 35. "Tissue" means a portion of the human body other than
5 1 an organ or an eye, but does not include blood unless the
5 2 blood is donated for the purpose of research or education.

5 3 36. "Tissue bank" means a person that is licensed,
5 4 accredited, or regulated under federal or state law to engage
5 5 in the recovery, screening, testing, processing, storage, or
5 6 distribution of tissue.

5 7 37. "Transplant hospital" means a hospital that furnishes
5 8 organ transplants and other medical and surgical specialty
5 9 services required for the care of transplant patients.

5 10 Sec. 3. Section 142C.3, Code 2007, is amended by striking
5 11 the section and inserting in lieu thereof the following:
5 12 142C.3 PERSONS WHO MAY MAKE == MANNER OF MAKING ==
5 13 AMENDING OR REVOKING == REFUSAL TO MAKE ANATOMICAL GIFT BEFORE
5 14 DONOR'S DEATH == PRECLUSIVE EFFECT.

5 15 1. WHO MAY MAKE. Subject to subsection 5, an anatomical
5 16 gift of a donor's body or part may be made during the life of
5 17 the donor for the purposes of transplantation, therapy,
5 18 research, or education in the manner prescribed in subsection
5 19 2 by any of the following:
5 20 a. The donor if the donor is any of the following:
5 21 (1) An adult.
5 22 (2) A minor, if the minor is emancipated.
5 23 (3) A minor, if the minor is authorized under state law to
5 24 apply for a driver's license or identification card because
5 25 the minor is at least 14 years of age, and the minor
5 26 authorizes a statement or symbol indicating an anatomical gift
5 27 on a driver's license, identification card, or donor registry
5 28 entry with the signed approval of a parent or guardian.
5 29 b. An agent of the donor, unless the durable power of
5 30 attorney for health care or other record prohibits the agent
5 31 from making the anatomical gift.
5 32 c. A parent of the donor, if the donor is an unemancipated
5 33 minor.
5 34 d. The guardian of the donor.
5 35 2. MANNER OF MAKING.
6 1 a. A donor may make an anatomical gift by any of the
6 2 following means:
6 3 (1) By authorizing a statement or symbol indicating that
6 4 the donor has made an anatomical gift to be imprinted on the
6 5 donor's driver's license or identification card.
6 6 (2) In a will.
6 7 (3) During a terminal illness or injury of the donor, by
6 8 any form of communication addressed to at least two adults, at
6 9 least one of whom is a disinterested witness.
6 10 (4) As provided in paragraph "b".
6 11 b. (1) A donor or other person authorized to make an
6 12 anatomical gift under subsection 1 may make a gift by a donor
6 13 card or other record signed by the donor or other person
6 14 making the gift or by authorizing that a statement or symbol
6 15 indicating that the donor has made an anatomical gift be
6 16 included on the donor registry.
6 17 (2) If the donor or other person is physically unable to
6 18 sign a record, the record may be signed by another individual
6 19 at the direction of the donor or other person and shall meet
6 20 all of the following requirements:
6 21 (a) Be witnessed by at least two adults, at least one of
6 22 whom is a disinterested witness, who have signed at the
6 23 request of the donor or other person.
6 24 (b) State that the record has been signed and witnessed as
6 25 provided in subparagraph subdivision (a).
6 26 c. Revocation, suspension, expiration, or cancellation of
6 27 a driver's license or identification card upon which an
6 28 anatomical gift is indicated shall not invalidate the gift.
6 29 d. An anatomical gift made by will takes effect upon the
6 30 donor's death whether or not the will is probated.
6 31 Invalidity of the will after the donor's death does not
6 32 invalidate the gift.
6 33 3. AMENDING OR REVOKING GIFT BEFORE DONOR'S DEATH.
6 34 a. Subject to subsection 5, a donor or other person
6 35 authorized to make an anatomical gift under subsection 1 may
7 1 amend or revoke an anatomical gift by any of the following
7 2 means:
7 3 (1) A record signed by any of the following:
7 4 (a) The donor.
7 5 (b) The other person authorized to make an anatomical
7 6 gift.
7 7 (c) Subject to paragraph "b", another individual acting at
7 8 the direction of the donor or the other authorized person if
7 9 the donor or other person is physically unable to sign the
7 10 record.
7 11 (2) A later-executed document of gift that amends or
7 12 revokes a previous anatomical gift or portion of an anatomical
7 13 gift, either expressly or by inconsistency.
7 14 b. A record signed pursuant to paragraph "a", subparagraph
7 15 (1), subparagraph subdivision (c), shall comply with all of
7 16 the following:
7 17 (1) Be witnessed by at least two adults, at least one of
7 18 whom is a disinterested witness, who have signed at the
7 19 request of the donor or the other authorized person.
7 20 (2) State that the record has been signed and witnessed as
7 21 provided in subparagraph (1).
7 22 c. Subject to subsection 5, a donor or other person
7 23 authorized to make an anatomical gift under subsection 1 may
7 24 revoke an anatomical gift by the destruction or cancellation
7 25 of the document of gift, or the portion of the document of

7 26 gift used to make the gift, with the intent to revoke the
7 27 gift.

7 28 d. A donor may amend or revoke an anatomical gift that was
7 29 not made in a will by any form of communication during a
7 30 terminal illness or injury addressed to at least two adults,
7 31 at least one of whom is a disinterested witness.

7 32 e. A donor who makes an anatomical gift in a will may
7 33 amend or revoke the gift in the manner provided for amendment
7 34 or revocation of wills or as provided in paragraph "a".

7 35 4. REFUSAL TO MAKE.

8 1 a. An individual may refuse to make an anatomical gift of
8 2 the individual's body or part by any of the following means:

8 3 (1) A record signed by any of the following:

8 4 (a) The individual.

8 5 (b) Subject to paragraph "b", another individual acting at
8 6 the direction of the individual if the individual is
8 7 physically unable to sign the record.

8 8 (2) The individual's will, whether or not the will is
8 9 admitted to probate or invalidated after the individual's
8 10 death.

8 11 (3) Any form of communication made by the individual
8 12 during the individual's terminal illness or injury addressed
8 13 to at least two adults, at least one of whom is a
8 14 disinterested witness.

8 15 b. A record signed pursuant to paragraph "a", subparagraph
8 16 (1), subparagraph subdivision (b), shall comply with all of
8 17 the following:

8 18 (1) Be witnessed by at least two adults, at least one of
8 19 whom is a disinterested witness, who have signed at the
8 20 request of the individual.

8 21 (2) State that the record has been signed and witnessed as
8 22 provided in subparagraph (1).

8 23 c. An individual who has made a refusal may amend or
8 24 revoke the refusal in accordance with any of the following:

8 25 (1) In the manner provided in paragraph "a" for making a
8 26 refusal.

8 27 (2) By subsequently making an anatomical gift pursuant to
8 28 subsection 2 that is inconsistent with the refusal.

8 29 (3) By destroying or canceling the record evidencing the
8 30 refusal, or the portion of the record used to make the
8 31 refusal, with the intent to revoke the refusal.

8 32 d. Except as otherwise provided in subsection 5, paragraph
8 33 "h", in the absence of an express, contrary indication by the
8 34 individual set forth in the refusal, an individual's unrevoked
8 35 refusal to make an anatomical gift of the individual's body or
9 1 part prohibits all other persons from making an anatomical
9 2 gift of the individual's body or part.

9 3 5. PRECLUSIVE EFFECT.

9 4 a. DONOR GIFT OR AMENDMENT == SUBSEQUENT ACTIONS BY OTHERS
9 5 PROHIBITED. Except as otherwise provided in paragraph "g",
9 6 and subject to paragraph "f", in the absence of a contrary
9 7 indication by the donor, a person other than the donor is
9 8 prohibited from making, amending, or revoking an anatomical
9 9 gift of a donor's body or part if the donor made an anatomical
9 10 gift of the donor's body or part under subsection 2 or an
9 11 amendment to an anatomical gift of the donor's body or part
9 12 under subsection 3.

9 13 b. DONOR REVOCATION NOT A REFUSAL. A donor's revocation
9 14 of an anatomical gift of the donor's body or part under
9 15 subsection 3 is not a refusal and does not prohibit another
9 16 person specified in subsection 1 or section 142C.4 from making
9 17 an anatomical gift of the donor's body or part under
9 18 subsection 2 or section 142C.4.

9 19 c. GIFT ON AMENDMENT BY ANOTHER == SUBSEQUENT ACTIONS BY
9 20 OTHERS PROHIBITED. If a person other than the donor makes an
9 21 unrevoked anatomical gift of the donor's body or part under
9 22 subsection 2, or an amendment to an anatomical gift of the
9 23 donor's body or part under subsection 3, another person may
9 24 not make, amend, or revoke the gift of the donor's body or
9 25 part under section 142C.4.

9 26 d. REVOCATION BY ANOTHER NOT PROHIBITIVE OF OTHER GIFT. A
9 27 revocation of an anatomical gift of a donor's body or part
9 28 under subsection 3 by a person other than the donor does not
9 29 prohibit another person from making an anatomical gift of the
9 30 body or part under subsection 2 or section 142C.4.

9 31 e. GIFT OF PART NOT PROHIBITIVE OF GIFT OF ANOTHER PART.
9 32 In the absence of a contrary indication by the donor or other
9 33 person authorized to make an anatomical gift under subsection
9 34 1, an anatomical gift of a part is neither a refusal to donate
9 35 another part nor a limitation on the making of an anatomical
10 1 gift of another part at a later time by the donor or another

10 2 authorized person.

10 3 f. GIFT FOR ONE PURPOSE NOT PROHIBITIVE OF ANOTHER

10 4 PURPOSE. In the absence of a contrary indication by the donor

10 5 or other person authorized to make an anatomical gift under

10 6 subsection 1, an anatomical gift of a part for one or more of

10 7 the purposes specified in subsection 1 is not a limitation on

10 8 the making of an anatomical gift of the part for any of the

10 9 other purposes by the donor or any other person under

10 10 subsection 2 or section 142C.4.

10 11 g. UNEMANCIPATED MINOR GIFT == PARENT REVOCATION. If a

10 12 donor who is an unemancipated minor dies, a parent of the

10 13 donor who is reasonably available may revoke or amend an

10 14 anatomical gift of the donor's body or part.

10 15 h. UNEMANCIPATED MINOR REFUSAL == PARENT REVOCATION OR

10 16 AMENDMENT. If an unemancipated minor who signed a refusal

10 17 dies, a parent of the minor who is reasonably available may

10 18 revoke the minor's refusal.

10 19 Sec. 4. Section 142C.4, Code 2007, is amended by striking

10 20 the section and inserting in lieu thereof the following:

10 21 142C.4 WHO MAY MAKE ANATOMICAL GIFT OF DECEDENT'S BODY OR

10 22 PART == AMENDING OR REVOKING GIFT.

10 23 1. Subject to subsection 2, and unless prohibited by

10 24 section 142C.3, subsection 4 or 5, an anatomical gift of a

10 25 decedent's body or part for purposes of transplantation,

10 26 therapy, research, or education may be made by any member of

10 27 the following classes of persons who is reasonably available,

10 28 in the order of priority listed.

10 29 a. An agent of the decedent at the time of death who could

10 30 have made an anatomical gift under section 142C.3, subsection

10 31 1, immediately before the decedent's death.

10 32 b. The spouse of the decedent.

10 33 c. Adult children of the decedent.

10 34 d. Parents of the decedent.

10 35 e. Adult siblings of the decedent.

11 1 f. Adult grandchildren of the decedent.

11 2 g. Grandparents of the decedent.

11 3 h. An adult who exhibited special care and concern for the

11 4 decedent.

11 5 i. Any persons who were acting as guardians of the

11 6 decedent at the time of death.

11 7 j. Any other person having the authority to dispose of the

11 8 decedent's body.

11 9 2. a. If there is more than one member of a class listed

11 10 in subsection 1, paragraph "a", "c", "d", "e", "f", "g", or

11 11 "i", entitled to make an anatomical gift, an anatomical gift

11 12 may be made by one member of the class unless that member or a

11 13 person to whom the gift may pass under section 142C.5 knows of

11 14 an objection by another member of the class. If an objection

11 15 is known, the gift shall be made only by a majority of the

11 16 members of the class who are reasonably available.

11 17 b. A person shall not make an anatomical gift if, at the

11 18 time of the death of the decedent, a person in a prior class

11 19 under subsection 1 is reasonably available to make or to

11 20 object to the making of an anatomical gift.

11 21 3. A person authorized to make an anatomical gift under

11 22 subsection 1 may make an anatomical gift by a document of gift

11 23 signed by the person making the gift or by the person's oral

11 24 communication that is electronically recorded or is

11 25 contemporaneously reduced to a record and signed by the

11 26 recipient of the oral communication.

11 27 4. Subject to subsection 5, an anatomical gift by a person

11 28 authorized under subsection 1 may be amended or revoked orally

11 29 or in a record by any member of the prior class who is

11 30 reasonably available. If more than one member of the prior

11 31 class is reasonably available, the gift made by a person

11 32 authorized under subsection 1 may be:

11 33 a. Amended only if a majority of the reasonably available

11 34 members agree to the amending of the gift.

11 35 b. Revoked only if a majority of the reasonably available

12 1 members agree to the revoking of the gift or if they are

12 2 equally divided as to whether to revoke the gift.

12 3 5. A revocation under subsection 4 is effective only if,

12 4 before an incision has been made to remove a part from the

12 5 donor's body or before invasive procedures have begun to

12 6 prepare the recipient, the procurement organization,

12 7 transplant hospital, or physician or technician knows of the

12 8 revocation.

12 9 Sec. 5. Section 142C.4A, Code 2007, is amended by striking

12 10 the section and inserting in lieu thereof the following:

12 11 142C.4A COOPERATION BETWEEN MEDICAL EXAMINER AND ORGAN

12 12 PROCUREMENT ORGANIZATION == FACILITATION OF ANATOMICAL GIFT

12 13 FROM DECEDENT WHOSE BODY IS UNDER JURISDICTION OF MEDICAL
12 14 EXAMINER.

12 15 1. A medical examiner shall cooperate with procurement
12 16 organizations to maximize the opportunity to recover organs
12 17 for the purpose of transplantation when the recovery of organs
12 18 does not interfere with a death investigation.

12 19 2. If a medical examiner receives notice from a
12 20 procurement organization that an organ might be or was made
12 21 available with respect to a decedent whose body is under the
12 22 jurisdiction of the medical examiner and a postmortem
12 23 examination will be performed, unless the medical examiner
12 24 denies recovery in accordance with this section, the medical
12 25 examiner or designee shall conduct a postmortem examination of
12 26 the body or the organ in a manner and within a period
12 27 compatible with its preservation for the purposes of the gift.
12 28 Every reasonable effort shall be made to accomplish the mutual
12 29 goals of organ donation and a thorough death investigation.

12 30 3. An organ shall not be removed from the body of a
12 31 decedent under the jurisdiction of a medical examiner for
12 32 transplantation unless the organ is the subject of an
12 33 anatomical gift. This subsection does not preclude a medical
12 34 examiner from performing a medicolegal investigation pursuant
12 35 to subsection 5 upon the body or organs of a decedent under
13 1 the jurisdiction of the medical examiner.

13 2 4. Upon request of an organ procurement organization, a
13 3 medical examiner shall release to the organ procurement
13 4 organization the name and contact information of a decedent
13 5 whose body is under the jurisdiction of the medical examiner.
13 6 If the decedent's organs are medically suitable for
13 7 transplantation, the pathologist or medical examiner shall
13 8 release to the organ procurement organization the postmortem
13 9 examination results, limited to cause and manner of death and
13 10 any evidence of infection or other disease process, which
13 11 might preclude safe transplantation of recovered organs. The
13 12 organ procurement organization may make a subsequent
13 13 disclosure of the postmortem examination results only if
13 14 relevant to transplantation.

13 15 5. The medical examiner may conduct a medicolegal
13 16 examination by reviewing all medical records, laboratory test
13 17 results, X rays, other diagnostic results, and other
13 18 information that any person possesses about a donor or
13 19 prospective donor whose body is under the jurisdiction of the
13 20 medical examiner, which the medical examiner determines may be
13 21 relevant to the investigation.

13 22 6. A person who has any information requested by a medical
13 23 examiner pursuant to subsection 5 shall provide that
13 24 information as expeditiously as possible to allow the medical
13 25 examiner to conduct the medicolegal investigation within a
13 26 period compatible with the preservation of organs for the
13 27 purpose of transplantation.

13 28 7. If an anatomical gift has been or might be made of an
13 29 organ of a decedent whose body is under the jurisdiction of
13 30 the medical examiner and a postmortem examination is not
13 31 required, or the medical examiner determines that a postmortem
13 32 examination is required but that the recovery of the organ
13 33 that is the subject of an anatomical gift will not interfere
13 34 with the examination, the medical examiner and organ
13 35 procurement organization shall cooperate in the timely removal
14 1 of the organ from the decedent for the purpose of
14 2 transplantation.

14 3 8. a. If an anatomical gift of an organ from a decedent
14 4 under the jurisdiction of the medical examiner has been or
14 5 might be made, but the pathologist or medical examiner
14 6 initially believes that the recovery of the organ could
14 7 interfere with the postmortem investigation into the
14 8 decedent's cause or manner of death, the pathologist or
14 9 medical examiner shall consult with the organ procurement
14 10 organization or physician or technician designated by the
14 11 organ procurement organization about the proposed recovery.

14 12 b. Ancillary clinical tests such as a magnetic resonance
14 13 imaging (MRI), a computed tomography (CT) scan, or skeletal
14 14 survey may be required by the pathologist prior to
14 15 determination of suitability of organ procurement. These
14 16 tests shall be performed and interpreted by the appropriate
14 17 physician at the pathologist's request, and reported in a
14 18 timely fashion. All expenses for such tests shall be the
14 19 responsibility of the organ procurement organization
14 20 regardless of outcome.

14 21 c. After consultation pursuant to paragraph "a" and any
14 22 preliminary investigation pursuant to paragraph "b", the
14 23 pathologist or medical examiner may allow recovery, depending

14 24 on the nature of the case and the availability of a
14 25 pathologist to view the body prior to recovery.

14 26 9. If the manner of death may be homicide or has the
14 27 potential for litigation, the organ recovery shall be approved
14 28 by the forensic pathologist, and the forensic pathologist may
14 29 examine the body prior to organ recovery and document by
14 30 diagrams and photographs all visible injuries.

14 31 10. a. If the medical examiner or designee allows
14 32 recovery of an organ under subsection 7, 8, or 9, the organ
14 33 procurement organization, upon request, shall cause the
14 34 physician or technician who removes the organ to provide the
14 35 medical examiner with a record describing the condition of the
15 1 organ, a biopsy, a photograph, and any other information and
15 2 observations that would assist in the postmortem examination.

15 3 b. Arrangements for the examination of bodies of such
15 4 decedents shall be coordinated between the organ procurement
15 5 organization and the state medical examiner.

15 6 c. If applicable, and whenever possible, the forensic
15 7 pathologist who examined the decedent's body prior to recovery
15 8 of the organ shall perform the autopsy. If the forensic
15 9 pathologist is unable to accommodate examination of the body
15 10 due to scheduling or staffing, the request for organ donation
15 11 may be denied.

15 12 11. If a medical examiner or designee is required to be
15 13 present at a removal procedure under subsection 9, upon
15 14 request, the organ procurement organization requesting the
15 15 recovery of the organ shall reimburse the medical examiner or
15 16 designee for the additional costs incurred in complying with
15 17 subsection 9.

15 18 12. A physician or technician who removes an organ at the
15 19 direction of the organ procurement organization may be called
15 20 to testify about findings from the surgical recovery of organs
15 21 at no cost to taxpayers if the decedent is under the
15 22 jurisdiction of the medical examiner.

15 23 13. a. The medical examiner or pathologist with
15 24 jurisdiction over the body of a decedent has discretion to
15 25 grant or deny permission for organ or tissue recovery.

15 26 b. If the recovery of organs or tissues may hinder the
15 27 determination of cause or manner of death or if evidence may
15 28 be destroyed by the recovery, permission may be denied.

15 29 c. The medical examiner or a pathologist performing state
15 30 autopsies shall work closely with procurement organizations in
15 31 an effort to balance the needs of the public and the
15 32 decedent's next of kin.

15 33 Sec. 6. Section 142C.5, Code 2007, is amended by striking
15 34 the section and inserting in lieu thereof the following:

15 35 142C.5 PERSONS WHO MAY RECEIVE ANATOMICAL GIFTS AND
16 1 PURPOSES FOR WHICH ANATOMICAL GIFTS MAY BE MADE.

16 2 1. An anatomical gift may be made to the following persons
16 3 named in a document of gift:

16 4 a. A hospital, accredited medical or osteopathic medical
16 5 school, dental school, college, or university, organ
16 6 procurement organization, or other appropriate person for
16 7 research or education.

16 8 b. An eye bank or tissue bank.

16 9 c. Subject to subsection 2, an individual designated by
16 10 the person making the anatomical gift if the individual is the
16 11 recipient of the part.

16 12 2. If an anatomical gift to an individual under subsection
16 13 1, paragraph "c", cannot be transplanted into the individual,
16 14 the part passes in accordance with subsection 7 in the absence
16 15 of an express, contrary indication by the person making the
16 16 anatomical gift.

16 17 3. If an anatomical gift of one or more specific parts or
16 18 of all parts is made in a document of gift that does not name
16 19 a person described in subsection 1 but identifies the purpose
16 20 for which an anatomical gift may be used, the following rules
16 21 apply:

16 22 a. If the part is an eye and the gift is for the purpose
16 23 of transplantation or therapy, the gift passes to the
16 24 appropriate eye bank.

16 25 b. If the part is tissue and the gift is for the purpose
16 26 of transplantation or therapy, the gift passes to the
16 27 appropriate tissue bank.

16 28 c. If the part is an organ and the gift is for the purpose
16 29 of transplantation or therapy, the gift passes to the
16 30 appropriate organ procurement organization as custodian of the
16 31 organ.

16 32 d. If the part is an organ, an eye, or tissue and the gift
16 33 is for the purpose of research or education, the gift passes
16 34 to the appropriate procurement organization.

16 35 4. For the purpose of subsection 3, if there is more than
17 1 one purpose of an anatomical gift set forth in the document of
17 2 gift but the purposes are not set forth in any priority, the
17 3 gift shall be used for transplantation or therapy, if
17 4 suitable. If the gift cannot be used for transplantation or
17 5 therapy, the gift may be used for research or education.
17 6 5. If an anatomical gift of one or more specific parts is
17 7 made in a document of gift that does not name a person
17 8 described in subsection 1 and does not identify the purpose of
17 9 the gift, the gift may be used only for transplantation or
17 10 therapy, and the gift passes in accordance with subsection 7.
17 11 6. If a document of gift specifies only a general intent
17 12 to make an anatomical gift by words such as "donor", "organ
17 13 donor", or "body donor", or by a symbol or statement of
17 14 similar import, the gift may be used only for transplantation
17 15 or therapy, and the gift passes in accordance with subsection
17 16 7.
17 17 7. For the purposes of subsections 2, 5, and 6, the
17 18 following rules shall apply:
17 19 a. If the part is an eye, the gift passes to the
17 20 appropriate eye bank.
17 21 b. If the part is tissue, the gift passes to the
17 22 appropriate tissue bank.
17 23 c. If the part is an organ, the gift passes to the
17 24 appropriate organ procurement organization as custodian of the
17 25 organ.
17 26 8. An anatomical gift of an organ for transplantation or
17 27 therapy, other than an anatomical gift under subsection 1,
17 28 paragraph "c", passes to the organ procurement organization as
17 29 custodian of the organ.
17 30 9. If an anatomical gift does not pass pursuant to
17 31 subsections 1 through 8, or the decedent's body or part is not
17 32 used for transplantation, therapy, research, or education,
17 33 custody of the body or part passes to the person under
17 34 obligation to dispose of the body or part.
17 35 10. A person shall not accept an anatomical gift if the
18 1 person knows that the gift was not effectively made under
18 2 section 142C.3, subsection 2, or section 142C.4, or if the
18 3 person knows that the decedent made a refusal under section
18 4 142C.3, subsection 4, that was not revoked. For purposes of
18 5 this subsection, if a person knows that an anatomical gift was
18 6 made on a document of gift, the person is deemed to know of
18 7 any amendment or revocation of the gift or any refusal to make
18 8 an anatomical gift on the same document of gift.
18 9 11. Except as otherwise provided in subsection 1,
18 10 paragraph "c", nothing in this chapter shall affect the
18 11 allocation of organs for transplantation or therapy.
18 12 Sec. 7. NEW SECTION. 142C.5A SEARCH AND NOTIFICATION.
18 13 1. The following persons shall make a reasonable search of
18 14 an individual who the person reasonably believes is dead or
18 15 near death for a document of gift or other information
18 16 identifying the individual as a donor or as an individual who
18 17 made a refusal:
18 18 a. A law enforcement officer, fire fighter, paramedic, or
18 19 other emergency rescuer finding the individual.
18 20 b. If no other source of the information is immediately
18 21 available, a hospital, as soon as practical after the
18 22 individual's arrival at the hospital.
18 23 2. If a document of gift or a refusal to make an
18 24 anatomical gift is located by the search required by
18 25 subsection 1, paragraph "a", and the individual or deceased
18 26 individual to whom it relates is taken to a hospital, the
18 27 person responsible for conducting the search shall deliver the
18 28 document of gift or refusal to the hospital.
18 29 3. A person is not subject to criminal or civil liability
18 30 for failing to discharge the duties imposed by this section
18 31 but may be subject to administrative sanctions.
18 32 Sec. 8. Section 142C.6, Code 2007, is amended by striking
18 33 the section and inserting in lieu thereof the following:
18 34 142C.6 DELIVERY OF DOCUMENT OF GIFT NOT REQUIRED == RIGHT
18 35 TO EXAMINE.
19 1 1. A document of gift does not require delivery during the
19 2 donor's lifetime to be effective.
19 3 2. Upon or after an individual's death, a person in
19 4 possession of the document of gift or a refusal to make an
19 5 anatomical gift with respect to the individual shall allow
19 6 examination and copying of the document of gift or the refusal
19 7 by a person authorized to make or object to the making of an
19 8 anatomical gift with respect to the individual or by a person
19 9 to whom the gift could pass under section 142C.5.
19 10 Sec. 9. Section 142C.7, Code 2007, is amended by striking

19 11 the section and inserting in lieu thereof the following:

19 12 142C.7 CONFIDENTIAL INFORMATION.

19 13 A hospital, licensed or certified health care professional
19 14 pursuant to chapter 148, 148C, 150A, or 152, or medical
19 15 examiner may release patient information to a procurement
19 16 organization as part of a referral or retrospective review of
19 17 the patient as a potential donor. Any information regarding a
19 18 patient, including the patient's identity, however,
19 19 constitutes confidential medical information and under any
19 20 other circumstances is prohibited from disclosure without the
19 21 written consent of the patient or the patient's legal
19 22 representative.

19 23 Sec. 10. Section 142C.8, Code 2007, is amended by striking
19 24 the section and inserting in lieu thereof the following:

19 25 142C.8 RIGHTS AND DUTIES OF PROCUREMENT ORGANIZATIONS AND
19 26 DONORS.

19 27 1. When a hospital refers an individual at or near death
19 28 to a procurement organization, the procurement organization
19 29 shall make a reasonable search of the records of the state
19 30 department of transportation and any donor registry that the
19 31 hospital knows exists for the geographical area in which the
19 32 individual resides to ascertain whether the individual has
19 33 made an anatomical gift.

19 34 2. A procurement organization shall be allowed reasonable
19 35 access to information in the records of the state department
20 1 of transportation to ascertain whether an individual at or
20 2 near death is a donor.

20 3 3. When a hospital refers an individual at or near death
20 4 to a procurement organization, the procurement organization
20 5 may conduct any reasonable examination necessary to ensure the
20 6 medical suitability of a part that is or could be the subject
20 7 of an anatomical gift for transplantation, therapy, research,
20 8 or education from a donor or a prospective donor. During the
20 9 examination period, measures necessary to ensure the medical
20 10 suitability of the part shall not be withdrawn unless the
20 11 hospital or procurement organization knows that the individual
20 12 expressed a contrary intent.

20 13 4. Unless prohibited by law other than this chapter, at
20 14 any time after a donor's death, the person to whom a part
20 15 passes under section 142C.5 may conduct any reasonable
20 16 examination necessary to ensure the medical suitability of the
20 17 body or part for its intended purpose.

20 18 5. Unless prohibited by law other than this chapter, an
20 19 examination under subsection 3 or 4 may include an examination
20 20 of all medical and dental records of the donor or prospective
20 21 donor.

20 22 6. Upon the death of a minor who was a donor or had signed
20 23 a refusal, unless a procurement organization knows the minor
20 24 is emancipated, the procurement organization shall conduct a
20 25 reasonable search for the parents of the minor and provide the
20 26 parents with an opportunity to revoke or amend the anatomical
20 27 gift or revoke the refusal.

20 28 7. Upon referral by a hospital under subsection 1, a
20 29 procurement organization shall make a reasonable search for
20 30 any person listed in section 142C.4 having priority to make an
20 31 anatomical gift on behalf of a prospective donor. If a
20 32 procurement organization receives information that an
20 33 anatomical gift to any other person was made, amended, or
20 34 revoked, the procurement organization shall promptly advise
20 35 the other person of all relevant information.

21 1 8. Subject to section 142C.5, subsection 9, the rights of
21 2 a person to whom a part passes under section 142C.5 are
21 3 superior to the rights of all other persons with respect to
21 4 the part.

21 5 9. The person may accept or reject an anatomical gift in
21 6 whole or in part. Subject to the terms of the document of
21 7 gift and this chapter, a person who accepts an anatomical gift
21 8 of an entire body may allow embalming, burial or cremation,
21 9 and use of the remains in a funeral service. If the gift is
21 10 of a part, the person to whom the part passes under section
21 11 142C.5, upon the death of the donor and prior to embalming,
21 12 burial, or cremation, shall cause the part to be removed
21 13 without unnecessary mutilation.

21 14 10. The physician who attends the decedent at death and
21 15 the physician who determines the time of death shall not
21 16 participate in the procedures for removing or transplanting a
21 17 part from the decedent.

21 18 11. A physician or technician may remove a donated part
21 19 from the body of a donor that the physician or technician is
21 20 qualified to remove.

21 21 Sec. 11. Section 142C.9, Code 2007, is amended by striking

21 22 the section and inserting in lieu thereof the following:
21 23 142C.9 COORDINATION OF PROCUREMENT AND USE.
21 24 Each hospital in the state shall enter into agreements or
21 25 affiliations with procurement organizations for coordination
21 26 of procurement and use of anatomical gifts.
21 27 Sec. 12. Section 142C.10, Code 2007, is amended by
21 28 striking the section and inserting in lieu thereof the
21 29 following:
21 30 142C.10 SALE OR PURCHASE OF PARTS PROHIBITED == PENALTY.
21 31 1. A person shall not knowingly, for valuable
21 32 consideration, purchase or sell a part for transplantation or
21 33 therapy, if removal of the part is intended to occur after the
21 34 death of the decedent.
21 35 2. Valuable consideration does not include reasonable
22 1 payment for the removal, processing, preservation, quality
22 2 control, storage, transportation, implantation, or disposal of
22 3 a part.
22 4 3. A person who violates this section commits a class "C"
22 5 felony.
22 6 Sec. 13. NEW SECTION. 142C.10A OTHER PROHIBITED ACTS ==
22 7 PENALTY.
22 8 A person who, in order to obtain a financial gain,
22 9 intentionally falsifies, forges, conceals, defaces, or
22 10 obliterates a document of gift, an amendment or revocation of
22 11 a document of gift, or a refusal, commits a class "C" felony.
22 12 Sec. 14. Section 142C.11, Code 2007, is amended by
22 13 striking the section and inserting in lieu thereof the
22 14 following:
22 15 142C.11 IMMUNITY.
22 16 1. A person who complies with this chapter in good faith
22 17 or with the applicable anatomical gift law of another state,
22 18 or who attempts in good faith to comply, is immune from
22 19 liability in any civil action, criminal prosecution, or
22 20 administrative proceeding.
22 21 2. An individual who makes an anatomical gift pursuant to
22 22 this chapter and the individual's estate are not liable for
22 23 any injury or damages that may result from the making or the
22 24 use of the anatomical gift, if the gift is made in good faith.
22 25 3. In determining whether an anatomical gift has been
22 26 made, amended, or revoked under this chapter, a person may
22 27 rely upon representations of an individual listed in section
22 28 142C.4, subsection 1, paragraph "b", "c", "d", "e", "f", "g",
22 29 or "h", relating to the individual's relationship to the donor
22 30 or prospective donor unless the person knows that the
22 31 representation is untrue.
22 32 Sec. 15. NEW SECTION. 142C.12A LAW GOVERNING VALIDITY,
22 33 CHOICE OF LAW, PRESUMPTION OF VALIDITY.
22 34 1. A document of gift is valid if executed in accordance
22 35 with any of the following:
23 1 a. This chapter.
23 2 b. The laws of the state or country where the document of
23 3 gift was executed.
23 4 c. The laws of the state or country where the person
23 5 making the anatomical gift was domiciled, has a place of
23 6 residence, or was a national at the time the document of gift
23 7 was executed.
23 8 2. If a document of gift is valid under this section, the
23 9 law of this state governs the interpretation of the document
23 10 of gift.
23 11 3. A person may presume that a document of gift or
23 12 amendment of an anatomical gift is valid unless that person
23 13 knows that it was not validly executed or was revoked.
23 14 Sec. 16. NEW SECTION. 142C.12B EFFECT OF ANATOMICAL GIFT
23 15 ON ADVANCE HEALTH CARE DIRECTIVE.
23 16 1. As used in this section:
23 17 a. "Advance health care directive" means a durable power
23 18 of attorney for health care pursuant to chapter 144B or a
23 19 record signed or authorized by a prospective donor containing
23 20 the prospective donor's direction concerning a health care
23 21 decision for the prospective donor.
23 22 b. "Declaration" means a record signed by a prospective
23 23 donor specifying the circumstances under which a life support
23 24 system may be withheld or withdrawn from the prospective
23 25 donor.
23 26 c. "Health care decision" means any decision regarding the
23 27 health care of the prospective donor.
23 28 2. a. If a prospective donor has a declaration or advance
23 29 health care directive and the terms of the declaration or
23 30 directive and the express or implied terms of a potential
23 31 anatomical gift are in conflict with regard to the
23 32 administration of measures necessary to ensure the medical

23 33 suitability of a part for transplantation or therapy, the
23 34 prospective donor's attending physician and prospective donor
23 35 shall confer to resolve the conflict.

24 1 b. If the prospective donor is incapable of resolving the
24 2 conflict, an agent acting under the prospective donor's
24 3 declaration or directive or, if no agent exists or the agent
24 4 is not reasonably available, another person, authorized by law
24 5 other than this chapter to make health care decisions on
24 6 behalf of the prospective donor, shall act for the donor to
24 7 resolve the conflict. The agent or other person shall resolve
24 8 the conflict consistent with the desires of the donor as
24 9 expressed in a declaration executed in accordance with chapter
24 10 144A, or a durable power of attorney for health care executed
24 11 in accordance with chapter 144B, or as otherwise known, or if
24 12 not known, consistent with the donor's best interest.

24 13 c. The conflict shall be resolved as expeditiously as
24 14 possible.

24 15 d. Information relevant to the resolution of the conflict
24 16 may be obtained from the appropriate procurement organization
24 17 and any other person authorized to make an anatomical gift for
24 18 the prospective donor under section 142C.4. Prior to
24 19 resolution of the conflict, measures necessary to ensure the
24 20 medical suitability of the part shall not be withheld or
24 21 withdrawn from the prospective donor if withholding or
24 22 withdrawing the measures is not contraindicated by appropriate
24 23 end-of-life care.

24 24 Sec. 17. Section 142C.13, Code 2007, is amended by
24 25 striking the section and inserting in lieu thereof the
24 26 following:

24 27 142C.13 TRANSITIONAL PROVISIONS.

24 28 This chapter applies to an anatomical gift, or amendment
24 29 to, revocation of, or refusal to make an anatomical gift
24 30 whenever made.

24 31 Sec. 18. Section 142C.14, Code 2007, is amended by
24 32 striking the section and inserting in lieu thereof the
24 33 following:

24 34 142C.14 UNIFORMITY OF APPLICATION AND CONSTRUCTION.

24 35 This chapter shall be applied and construed with
25 1 consideration given to the need to promote uniformity of the
25 2 law with respect to anatomical gifts among states, which enact
25 3 this law.

25 4 Sec. 19. NEW SECTION. 142C.14A ELECTRONIC SIGNATURES.

25 5 This chapter modifies, limits, and supersedes the federal
25 6 Electronic Signatures in Global and National Commerce Act, 15
25 7 U.S.C. } 7001 et seq., but does not modify, limit, or
25 8 authorize electronic delivery of any of the notices described
25 9 in } 103(b) of that Act, 15 U.S.C. } 7003(b).

25 10 Sec. 20. Section 142C.15, subsection 4, paragraph a, Code
25 11 2007, is amended to read as follows:

25 12 a. Not more than twenty percent of the moneys in the fund
25 13 annually may be expended in the form of grants to state
25 14 agencies or to nonprofit legal entities with an interest in
25 15 anatomical gift public awareness and transplantation to
25 16 conduct public awareness projects. Moneys remaining that were
25 17 not requested and awarded for public awareness projects may be
25 18 used for research, or to develop and support a statewide organ
25 19 and tissue the Iowa donor registry. Grants shall be made
25 20 based upon the submission of a grant application by an agency
25 21 or entity to conduct a public awareness project or to
25 22 research, or develop and support a statewide organ and tissue
25 23 donor registry.

25 24 Sec. 21. Section 142C.16, subsection 1, paragraph e, Code
25 25 2007, is amended to read as follows:

25 26 e. A ~~bank or storage procurement~~ organization.

25 27 Sec. 22. Section 142C.16, subsection 1, Code 2007, is
25 28 amended by adding the following new paragraph:

25 29 NEW PARAGRAPH. k. The state medical examiner.

25 30 Sec. 23. Section 142C.16, subsection 2, Code 2007, is
25 31 amended to read as follows:

25 32 2. Members shall serve staggered terms of two years.

25 33 Appointments of members of the committee shall comply with
25 34 ~~sections section 69.16 and but are not subject to section~~
25 35 69.16A. Vacancies shall be filled by the original appointing
26 1 authority and in the manner of the original appointment.

26 2 Sec. 24. Section 142C.18, Code 2007, is amended by
26 3 striking the section and inserting in lieu thereof the
26 4 following:

26 5 142C.18 IOWA DONOR REGISTRY.

26 6 1. The director of public health shall contract with and
26 7 recognize the Iowa donor registry for the purpose of
26 8 indicating on the donor registry all relevant information

26 9 regarding a donor's making or amending of an anatomical gift.
26 10 2. The state department of transportation shall cooperate
26 11 with a person that administers the Iowa donor registry for the
26 12 purpose of transferring to the donor registry all relevant
26 13 information regarding a donor's making of an anatomical gift.
26 14 3. The Iowa donor registry shall do all of the following:
26 15 a. Allow a donor or other person authorized under section
26 16 142C.3 to include on the donor registry a statement or symbol
26 17 that the donor has made or amended an anatomical gift.
26 18 b. Be accessible to a procurement organization to allow
26 19 the procurement organization to obtain relevant information on
26 20 the donor registry to determine, at or near the death of the
26 21 donor or a prospective donor, whether the donor or prospective
26 22 donor has made, amended, or revoked an anatomical gift.
26 23 c. Be accessible for purposes of paragraphs "a" and "b"
26 24 seven days a week on a twenty-four-hour per day basis.
26 25 d. Provide a centralized, automated system to compile
26 26 donation information received by the state department of
26 27 transportation, county treasurers, and the Iowa donor network.
26 28 e. Provide educational materials regarding the making,
26 29 amending, or revoking of an anatomical gift or a refusal to
26 30 make an anatomical gift.
26 31 4. Personally identifiable information on the donor
26 32 registry about a donor or prospective donor shall not be used
26 33 or disclosed without the express consent of the donor,
26 34 prospective donor, or person that made the anatomical gift for
26 35 any purpose other than to determine, at or near the death of
27 1 the donor or prospective donor, whether the donor or
27 2 prospective donor has made, amended, or revoked an anatomical
27 3 gift.

27 4 DIVISION II

27 5 CONFORMING AMENDMENTS

27 6 Sec. 25. Section 141A.7, subsection 2, paragraph a, Code
27 7 2007, is amended to read as follows:

27 8 a. The performance by a health care provider or health
27 9 facility of an HIV-related test when the health care provider
27 10 or health facility procures, processes, distributes, or uses a
27 11 human body part donated for a purpose specified under the
27 12 revised uniform anatomical gift Act as provided in chapter
27 13 142C, or semen provided prior to July 1, 1988, for the purpose
27 14 of artificial insemination, or donations of blood, and such
27 15 test is necessary to ensure medical acceptability of such gift
27 16 or semen for the purposes intended.

27 17 Sec. 26. Section 142.4, unnumbered paragraph 2, Code 2007,
27 18 is amended to read as follows:

27 19 This section shall not apply to bodies given under
27 20 authority of the revised uniform anatomical gift Act as
27 21 provided in chapter 142C.

27 22 Sec. 27. Section 142.8, unnumbered paragraph 2, Code 2007,
27 23 is amended to read as follows:

27 24 This section shall not apply to bodies given under
27 25 authority of the revised uniform anatomical gift Act as
27 26 provided in chapter 142C.

27 27 Sec. 28. Section 321.178, subsection 1, paragraph a,
27 28 subparagraph (3), Code 2007, is amended to read as follows:

27 29 (3) Instruction relating to becoming an organ donor under
27 30 the revised uniform anatomical gift Act as provided in chapter
27 31 142C.

27 32 Sec. 29. Section 321.189, subsection 4, Code 2007, is
27 33 amended to read as follows:

27 34 4. SYMBOLS. Upon the request of a licensee, the
27 35 department shall indicate on the license the presence of a
28 1 medical condition, that the licensee is a donor under the
28 2 revised uniform anatomical gift Act as provided in chapter
28 3 142C, or that the licensee has in effect a medical advance
28 4 directive. For purposes of this subsection, a medical advance
28 5 directive includes, but is not limited to, a valid durable
28 6 power of attorney for health care as defined in section
28 7 144B.1. The license may contain such other information as the
28 8 department may require by rule.

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JOHN P. KIBBIE
President of the Senate

PATRICK J. MURPHY
Speaker of the House

28 20 I hereby certify that this bill originated in the Senate and
28 21 is known as Senate File 509, Eighty-second General Assembly.
28 22
28 23
28 24

28 25 _____
28 26 MICHAEL E. MARSHALL
28 27 Secretary of the Senate

28 27 Approved _____, 2007

28 28
28 29
28 30 _____
28 31 CHESTER J. CULVER
28 32 Governor